



April 30, 1999

Mr. Michael Bostic
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-1193

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124438.

The Dallas Police Department (the "department") received a request for any and all employment records, payroll records, attendance records, and any other records the City of Dallas may have for a particular individual. You have released the bulk of the information but you claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You contend that some of the requested information are records of a law enforcement agency that are maintained for internal use in matters relating to law enforcement and personnel matters. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 552.101 of the Government Code excepts from disclosure criminal history report information ("CHRI"). Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See Open Records Decision Nos. 616 (1993), 565 (1990)*. Based on our interpretation and review of the submitted records, it does not appear that CHRI is implicated.

You also argue that addresses, telephone numbers, social security numbers, and information about family members must or should be withheld under section 552.117 of the Government Code. Some of the submitted documents contain information that may be excepted from public disclosure by section 552.117. Section 552.117 excepts from required public disclosure the home addresses, home telephone numbers, social security numbers, or personal family members information of public employees who request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold this information if a current or former employee or official requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989). We have marked the information in the submitted materials that must be withheld.

You also argue that medical records should be withheld. Section 5.08 the Medical Practice Act (the "MPA"), V.T.C.S. article 4495b, provides:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

V.T.C.S. art. 4495b, § 5.08. Section 5.08(j)(3) also requires that any subsequent release of medical records be consistent with the purposes for which a governmental body obtained the records. Open Records Decision No. 565 at 7 (1990). Thus, access to medical records is not governed by chapter 552 of the Government Code, but rather the MPA. Open Records Decision No. 598 (1991). Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See* V.T.C.S. art. 4495b § 5.08(a), (b), (c), (j); Open Records Decision Nos. 598 (1991), 546 (1990). We have marked the information in the submitted documents that is subject to the MPA. The department may only release this information in accordance with the MPA.

You have submitted an offense report that appears to be non-responsive to the request. However, since this incident relates to an injury to a child, the report is made confidential by section 261.201 of the Family Code and must not be released. Gov't Code § 261.201.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/eaf

Ref.: ID# 124438

encl. Marked documents

cc: Mr. Trey Wilson
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(w/o enclosures)